HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 800 OF 2005.

The Oriental Insurance Co., Ltd. ..Appellant.

Versus.

Smt. Mongihben Panchalal Karia & ors. ..Respondents.

Mr. Rajesh S. Datar for the appellant.

CORAM: S.B.MHASE &
D.B.BHOSALE, JJ.

DATE: MAY 3, 2005.

P.C.

1. Heard Mr. R.S.Datar. First ground on which the learned counsel challenged the judgment of the trial court is that income of the deceased has not been proved. We have found that the wife of the deceased has claimed that the income of her husband was Rs.20,000/- per month, however, on the basis of income tax return it has been held to be Rupees 7 to 8 thousand per month. We find that, that has been reasonably arrived at by the Tribunal. The deceased has died leaving behind 5 minor children, wife and 75 years old mother. We do not find merit in the said submission.

2. The second contention is about the negligence, however, the point of negligence has been rightly

considered by the trial court. Insurance Company is not having any personal knowledge about the incidence. The insurance policy was in existence on the date of incidence and the matter has been rightly decided. We are told at the bar that the total amount of compensation is deposited by the Insurance Company in the trial court and as per the apportionment provided in the award, the amount has been disbursed. We find that there is no merit in the appeal, it is hereby rejected.

3. In view of the disposal of the main appeal, civil application does not survive, it is accordingly disposed of.

(D.B.BHOSALE,J.) **(S.B.MHASE, J.)**

:srp/2005/